

2 SHB 2661 - S COMM AMD

3 By Committee on Labor, Commerce & Financial Institutions

4 ADOPTED 03/06/02

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
8 cited as the uniform money services act.

9 NEW SECTION. **Sec. 2.** PURPOSE. It is the intent of the
10 legislature to establish a state system of licensure and regulation to
11 ensure the safe and sound operation of money transmission and currency
12 exchange businesses, to ensure that these businesses are not used for
13 criminal purposes, to promote confidence in the state's financial
14 system, and to protect the public interest.

15 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

18 (1) "Affiliate" means any person who directly or indirectly through
19 one or more intermediaries, controls, is controlled by, or is under
20 common control with, another person.

21 (2) "Applicant" means a person that files an application for a
22 license under this chapter, including the applicant's proposed
23 responsible individual and executive officers, and persons in control
24 of the applicant.

25 (3) "Authorized delegate" means a person a licensee designates to
26 provide money services on behalf of the licensee. A person that is
27 exempt from licensing under this chapter cannot have an authorized
28 delegate.

29 (4) "Financial institution" means any person doing business under
30 the laws of any state or the United States relating to commercial
31 banks, bank holding companies, savings banks, savings and loan
32 associations, trust companies, or credit unions.

33 (5) "Control" means:

1 (a) Ownership of, or the power to vote, directly or indirectly, at
2 least twenty-five percent of a class of voting securities or voting
3 interests of a licensee or applicant, or person in control of a
4 licensee or applicant;

5 (b) Power to elect a majority of executive officers, managers,
6 directors, trustees, or other persons exercising managerial authority
7 of a licensee or applicant, or person in control of a licensee or
8 applicant; or

9 (c) Power to exercise directly or indirectly, a controlling
10 influence over the management or policies of a licensee or applicant,
11 or person in control of a licensee or applicant.

12 (6) "Currency exchange" means exchanging the money of one
13 government for money of another government, or holding oneself out as
14 able to exchange the money of one government for money of another
15 government. The following persons are not considered currency
16 exchangers:

17 (a) Affiliated businesses that engage in currency exchange for a
18 business purpose other than currency exchange;

19 (b) A person who provides currency exchange services for a person
20 acting primarily for a business, commercial, agricultural, or
21 investment purpose when the currency exchange is incidental to the
22 transaction;

23 (c) A person who deals in coins or a person who deals in money
24 whose value is primarily determined because it is rare, old, or
25 collectible; and

26 (d) A person who in the regular course of business chooses to
27 accept from a customer the currency of a country other than the United
28 States in order to complete the sale of a good or service other than
29 currency exchange, that may include cash back to the customer, and does
30 not otherwise trade in currencies or transmit money for compensation or
31 gain.

32 (7) "Executive officer" means a president, chairperson of the
33 executive committee, chief financial officer, responsible individual,
34 or other individual who performs similar functions.

35 (8) "Licensee" means a person licensed under this chapter.

36 (9) "Material litigation" means litigation that according to
37 generally accepted accounting principles is significant to an
38 applicant's or a licensee's financial health and would be required to

1 be disclosed in the applicant's or licensee's annual audited financial
2 statements, report to shareholders, or similar records.

3 (10) "Money" means a medium of exchange that is authorized or
4 adopted by the United States or a foreign government or other
5 recognized medium of exchange. "Money" includes a monetary unit of
6 account established by an intergovernmental organization or by
7 agreement between two or more governments.

8 (11) "Money services" means money transmission or currency
9 exchange.

10 (12) "Money transmission" means receiving money or its equivalent
11 value to transmit, deliver, or instruct to be delivered the money or
12 its equivalent value to another location, inside or outside the United
13 States, by any means including but not limited to by wire, facsimile,
14 or electronic transfer. "Money transmission" does not include the
15 provision solely of online or telecommunications services, or network
16 access.

17 (13) "Outstanding money transmission" means the value of all money
18 transmissions reported to the licensee for which the money transmitter
19 has received money or its equivalent value from the customer for
20 transmission, but has not yet completed the money transmission by
21 delivering the money or monetary value to the person designated by the
22 customer.

23 (14) "Payment instrument" means a check, draft, money order,
24 traveler's check, or other instrument for the transmission or payment
25 of money or its equivalent value, whether or not negotiable. "Payment
26 instrument" does not include a credit card voucher, letter of credit,
27 or instrument that is redeemable by the issuer in goods or services.

28 (15) "Person" means an individual, corporation, business trust,
29 estate, trust, partnership, limited liability company, association,
30 joint venture; government, governmental subdivision, agency, or
31 instrumentality; public corporation; or any other legal or commercial
32 entity.

33 (16) "Record" means information that is inscribed on a tangible
34 medium, or that is stored in an electronic or other medium, and is
35 retrievable in perceivable form.

36 (17) "Responsible individual" means an individual who is employed
37 by a licensee and has principal managerial authority over the provision
38 of money services by the licensee in this state.

1 (18) "State" means a state of the United States, the District of
2 Columbia, Puerto Rico, the United States Virgin Islands, or any
3 territory or insular possession subject to the jurisdiction of the
4 United States.

5 (19) "Director" means the director of financial institutions.

6 (20) "Unsafe or unsound practice" means a practice or conduct by a
7 person licensed to provide money services, or an authorized delegate of
8 such a person, which creates the likelihood of material loss,
9 insolvency, or dissipation of the licensee's assets, or otherwise
10 materially prejudices the financial condition of the licensee or the
11 interests of its customers.

12 (21) "Board director" means a member of the applicant's or
13 licensee's board of directors if the applicant is a corporation or
14 limited liability company, or a partner if the applicant or licensee is
15 a partnership.

16 (22) "Annual license assessment due date" means the date specified
17 in rule by the director upon which the annual license assessment is
18 due.

19 (23) "Currency exchanger" means a person that is engaged in
20 currency exchange.

21 (24) "Money transmitter" means a person that is engaged in money
22 transmission.

23 (25) "Mobile location" means a vehicle or movable facility where
24 money services are provided.

25 (26) "Stored value" means the recognition of value or credit to the
26 account of persons, when that value or credit is primarily intended to
27 be redeemed for a limited universe of goods, intangibles, services, or
28 other items provided by the issuer of the stored value, its affiliates,
29 or others involved in transactions functionally related to the goods,
30 intangibles, services, or other items of the issuer or its affiliates.

31 NEW SECTION. **Sec. 4.** EXCLUSIONS. This chapter does not apply to:

32 (1) The United States or a department, agency, or instrumentality
33 thereof;

34 (2) Money transmission by the United States postal service or by a
35 contractor on behalf of the United States postal service;

36 (3) A state, county, city, or a department, agency, or
37 instrumentality thereof;

1 (4) A financial institution or its subsidiaries, affiliates, and
2 service corporations, or any office of an international banking
3 corporation, branch of a foreign bank, or corporation organized
4 pursuant to the Bank Service Corporation Act (12 U.S.C. Sec. 1861-1867)
5 or a corporation organized under the Edge Act (12 U.S.C. Sec. 611-633);

6 (5) Electronic funds transfer of governmental benefits for a
7 federal, state, county, or governmental agency by a contractor on
8 behalf of the United States or a department, agency, or instrumentality
9 thereof, or a state or governmental subdivision, agency, or
10 instrumentality thereof;

11 (6) A board of trade designated as a contract market under the
12 federal Commodity Exchange Act (7 U.S.C. Sec. 1-25) or a person that,
13 in the ordinary course of business, provides clearance and settlement
14 services for a board of trade to the extent of its operation as, or
15 for, a board of trade;

16 (7) A registered futures commission merchant under the federal
17 commodities laws to the extent of its operation as such a merchant;

18 (8) A person that provides clearance or settlement services under
19 a registration as a clearing agency, or an exemption from that
20 registration granted under the federal securities laws, to the extent
21 of its operation as such a provider;

22 (9) An operator of a payment system only to the extent that it
23 provides processing, clearing, or settlement services, between or among
24 persons who are all excluded by this section, in connection with wire
25 transfers, credit card transactions, debit card transactions, stored-
26 value transactions, automated clearinghouse transfers, or similar funds
27 transfers;

28 (10) A person registered as a securities broker-dealer or
29 investment advisor under federal or state securities laws to the extent
30 of its operation as such a broker-dealer or investment advisor;

31 (11) An insurance company, title insurance company, or escrow agent
32 to the extent that such an entity is lawfully authorized to conduct
33 business in this state as an insurance company, title insurance
34 company, or escrow agent and to the extent that they engage in money
35 transmission or currency exchange as an ancillary service when
36 conducting insurance, title insurance, or escrow activity; or

37 (12) The issuance, sale, use, redemption, or exchange of stored
38 value or of payment instruments.

1 NEW SECTION. **Sec. 5.** MONEY TRANSMITTER LICENSE REQUIRED. (1) A
2 person may not engage in the business of money transmission, or
3 advertise, solicit, or hold itself out as providing money transmission,
4 unless the person is:

- 5 (a) Licensed as a money transmitter under this chapter; or
- 6 (b) An authorized delegate of a person licensed as a money
7 transmitter under this chapter.
- 8 (2) A money transmitter license is not transferable or assignable.

9 NEW SECTION. **Sec. 6.** APPLICATION FOR A MONEY TRANSMITTER LICENSE.

10 (1) A person applying for a money transmitter license under this
11 chapter shall do so in a form and in a medium prescribed in rule by the
12 director. The application must state or contain:

13 (a) The legal name, business addresses, and residential address, if
14 applicable, of the applicant and any fictitious or trade name used by
15 the applicant in conducting its business;

16 (b) The legal name, residential and business addresses, date of
17 birth, social security number, employment history for the ten-year
18 period preceding the submission of the application of the applicant's
19 proposed responsible individual, and documentation that the proposed
20 responsible individual is a citizen of the United States or has
21 obtained legal immigration status to work in the United States. In
22 addition, the applicant shall provide the fingerprints of the proposed
23 responsible individual upon the request of the director;

24 (c) For the ten-year period preceding submission of the
25 application, a list of any criminal convictions of the proposed
26 responsible individual of the applicant, any material litigation in
27 which the applicant has been involved, and any litigation involving the
28 proposed responsible individual relating to the provision of money
29 services;

30 (d) A description of any money services previously provided by the
31 applicant and the money services that the applicant seeks to provide in
32 this state;

33 (e) A list of the applicant's proposed authorized delegates and the
34 locations in this state where the applicant and its authorized
35 delegates propose to engage in the provision of money services;

36 (f) A list of other states in which the applicant is licensed to
37 engage in money transmission, or provide other money services, and any

1 license revocations, suspensions, restrictions, or other disciplinary
2 action taken against the applicant in another state;

3 (g) A list of any license revocations, suspensions, restrictions,
4 or other disciplinary action taken against any money services business
5 involving the proposed responsible individual;

6 (h) Information concerning any bankruptcy or receivership
7 proceedings involving or affecting the applicant or the proposed
8 responsible individual;

9 (i) A sample form of contract for authorized delegates, if
10 applicable;

11 (j) A description of the source of money and credit to be used by
12 the applicant to provide money services; and

13 (k) Any other information regarding the background, experience,
14 character, financial responsibility, and general fitness of the
15 applicant, the applicant's responsible individual, or authorized
16 delegates that the director may require in rule.

17 (2) If an applicant is a corporation, limited liability company,
18 partnership, or other entity, the applicant shall also provide:

19 (a) The date of the applicant's incorporation or formation and
20 state or country of incorporation or formation;

21 (b) If applicable, a certificate of good standing from the state or
22 country in which the applicant is incorporated or formed;

23 (c) A brief description of the structure or organization of the
24 applicant, including any parent or subsidiary of the applicant, and
25 whether any parent or subsidiary is publicly traded;

26 (d) The legal name, any fictitious or trade name, all business and
27 residential addresses, date of birth, social security number, and
28 employment history in the ten-year period preceding the submission of
29 the application for each executive officer, board director, or person
30 that has control of the applicant;

31 (e) If the applicant or its corporate parent is not a publicly
32 traded entity, the director may request the fingerprints of each
33 executive officer, board director, or person that has control of the
34 applicant;

35 (f) A list of any criminal convictions, material litigation, and
36 any litigation related to the provision of money services, in the ten-
37 year period preceding the submission of the application in which any
38 executive officer, board director, or person in control of the
39 applicant has been involved;

1 (g) A copy of the applicant's audited financial statements for the
2 most recent fiscal year or, if the applicant is a wholly owned
3 subsidiary of another corporation, the most recent audited consolidated
4 annual financial statement of the parent corporation or the applicant's
5 most recent audited consolidated annual financial statement, and in
6 each case, if available, for the two-year period preceding the
7 submission of the application;

8 (h) A copy of the applicant's unconsolidated financial statements
9 for the current fiscal year, whether audited or not, and, if available,
10 for the two-year period preceding the submission of the application;

11 (i) If the applicant is publicly traded, a copy of the most recent
12 report filed with the United States securities and exchange commission
13 under section 13 of the federal Securities Exchange Act of 1934 (15
14 U.S.C. Sec. 78m);

15 (j) If the applicant is a wholly owned subsidiary of:

16 (i) A corporation publicly traded in the United States, a copy of
17 audited financial statements for the parent corporation for the most
18 recent fiscal year or a copy of the parent corporation's most recent
19 report filed under section 13 of the federal Securities Exchange Act of
20 1934 (15 U.S.C. Sec. 78m); or

21 (ii) A corporation publicly traded outside the United States, a
22 copy of similar documentation filed with the regulator of the parent
23 corporation's domicile outside the United States;

24 (k) If the applicant has a registered agent in this state, the name
25 and address of the applicant's registered agent in this state; and

26 (l) Any other information that the director may require in rule
27 regarding the applicant, each executive officer, or each board director
28 to determine the applicant's background, experience, character,
29 financial responsibility, and general fitness.

30 (3) A nonrefundable application fee and an initial license fee, as
31 determined in rule by the director, must accompany an application for
32 a license under this chapter. The initial license fee must be refunded
33 if the application is denied.

34 (4) The director may waive one or more requirements of subsection
35 (1) or (2) of this section or permit an applicant to submit other
36 information in lieu of the required information.

37 NEW SECTION. **Sec. 7.** SECURITY. (1) Each money transmitter
38 licensee shall maintain a surety bond, or other similar security

1 acceptable to the director, in the amount of fifty thousand dollars
2 plus ten thousand dollars per location, including locations of
3 authorized delegates, not exceeding a total addition of five hundred
4 thousand dollars.

5 (2) The surety bond shall run to the state of Washington as
6 obligee, and shall run to the benefit of the state and any person or
7 persons who suffer loss by reason of a licensee's or licensee's
8 authorized delegate's violation of this chapter or the rules adopted
9 under this chapter. A claimant against a money transmitter licensee
10 may maintain an action on the bond, or the director may maintain an
11 action on behalf of the claimant.

12 (3) The surety bond shall be continuous and may be canceled by the
13 surety upon the surety giving written notice to the director of its
14 intent to cancel the bond. The cancellation is effective thirty days
15 after the notice of cancellation is received by the director or the
16 director's designee. Whether or not the bond is renewed, continued,
17 replaced, or modified, including increases or decreases in the penal
18 sum, it is considered one continuous obligation, and the surety upon
19 the bond is not liable in an aggregate or cumulative amount exceeding
20 the penal sum set forth on the face of the bond. In no event may the
21 penal sum, or any portion thereof, at two or more points in time, be
22 added together in determining the surety's liability.

23 (4) A surety bond or other security must cover claims for at least
24 five years after the date of a money transmitter licensee's violation
25 of this chapter, or at least five years after the date the money
26 transmitter licensee ceases to provide money services in this state,
27 whichever is longer.

28 (5) In the event that a money transmitter licensee does not
29 maintain a surety bond or other form of security satisfactory to the
30 director in the amount required under subsection (1) of this section,
31 the director may issue a temporary cease and desist order under section
32 28 of this act.

33 (6) The director may increase the amount of security required to a
34 maximum of one million dollars if the financial condition of a money
35 transmitter licensee so requires, as evidenced by reduction of net
36 worth, financial losses, potential losses as a result of violations of
37 this chapter or rules adopted under this chapter, or other relevant
38 criteria specified by the director in rule.

1 (7) An applicant or a licensee may petition the director or the
2 director's designee to waive the requirement for a surety bond if the
3 applicant is unable to obtain a surety bond.

4 (8) In determining whether to grant a waiver of the surety bond
5 requirement, the director or director's designee shall consider the
6 potential benefit and potential risk to the public in granting the
7 waiver, including but not limited to:

8 (a) The availability and affordability of money transmission
9 services in the community served by the applicant or licensee;

10 (b) The general availability and affordability of surety bonds in
11 the insurance market;

12 (c) Whether unique characteristics of the licensee or applicant
13 make it difficult for the licensee or applicant to obtain a surety
14 bond;

15 (d) Whether the applicant or licensee has violated this chapter,
16 the rules adopted under this chapter, or any similar statute or rules
17 in any other state where the applicant or licensee held or holds a
18 license;

19 (e) Whether the applicant or licensee has paid claims, either
20 directly or through a surety bond or other insurance policy, in the
21 three calendar years preceding the filing of the petition for a waiver
22 of the surety bond requirement; and

23 (f) Whether the responsible individual, or any executive officer,
24 board director, or person in control of the applicant or licensee has
25 been charged and is awaiting trial, or has been convicted of, a felony
26 or of any other crime alleging dishonesty, theft, or fraud.

27 (9) When granting a waiver of the surety bond requirement, the
28 director or the director's designee may require the applicant or
29 licensee to maintain higher net worth or may restrict the license of
30 the applicant or licensee as a condition of granting a waiver from the
31 surety bond requirement, including but not limited to restricting the
32 geographic area the applicant or licensee may serve, restricting the
33 community the applicant or licensee may serve, or restricting the
34 volume of money transmissions the applicant or licensee may perform in
35 a given period of time.

36 NEW SECTION. **Sec. 8.** NET WORTH FOR MONEY TRANSMITTER. A money
37 transmitter licensed under this chapter shall maintain a net worth,
38 determined in accordance with generally accepted accounting principles,

1 as determined in rule by the director. The director shall require a
2 net worth of at least ten thousand dollars and not more than fifty
3 thousand dollars. In the event that a licensee's net worth, as
4 determined in accordance with generally accepted accounting principles,
5 falls below the amount required in rule, the director or the director's
6 designee may initiate action under sections 25 and 28 of this act. The
7 licensee may request a hearing on such an action under chapter 34.05
8 RCW.

9 NEW SECTION. **Sec. 9.** ISSUANCE OF MONEY TRANSMITTER LICENSE. (1)
10 When an application for a money transmitter license is filed under this
11 chapter, the director or the director's designee shall investigate the
12 applicant's financial condition and responsibility, financial and
13 business experience, competence, character, and general fitness. The
14 director or the director's designee may conduct an on-site
15 investigation of the applicant, the cost of which must be paid by the
16 applicant as specified in section 34 of this act or rules adopted under
17 this chapter. The director shall issue a money transmitter license to
18 an applicant under this chapter if the director or the director's
19 designee finds that all of the following conditions have been
20 fulfilled:

21 (a) The applicant has complied with sections 6, 7, and 8 of this
22 act;

23 (b) The financial condition and responsibility, financial and
24 business experience, competence, character, and general fitness of the
25 applicant; and the competence, financial and business experience,
26 character, and general fitness of the executive officers, proposed
27 responsible individual, board directors, and persons in control of the
28 applicant; indicate that it is in the interest of the public to permit
29 the applicant to engage in the business of providing money transmission
30 services; and

31 (c) Neither the applicant, nor any executive officer, nor person
32 who exercises control over the applicant, nor the proposed responsible
33 individual is listed on the specially designated nationals and blocked
34 persons list prepared by the United States department of the treasury
35 or department of state under Presidential Executive Order No. 13224.

36 (2) The director may for good cause extend the application review
37 period.

1 (3) An applicant whose application is denied by the director under
2 this chapter may appeal under chapter 34.05 RCW.

3 (4) A money transmitter license issued under this chapter is valid
4 from the date of issuance and remains in effect with no fixed date of
5 expiration unless otherwise suspended or revoked by the director or
6 unless the license expires for nonpayment of the annual license
7 assessment and any late fee, if applicable.

8 (5) A money transmitter licensee may surrender a license by
9 delivering the original license to the director along with a written
10 notice of surrender. The written notice of surrender must include
11 notice of where the records of the licensee will be stored and the
12 name, address, telephone number, and other contact information of a
13 responsible party who is authorized to provide access to the records.
14 The surrender of a license does not reduce or eliminate the licensee's
15 civil or criminal liability arising from acts or omissions occurring
16 prior to the surrender of the license, including any administrative
17 actions undertaken by the director or the director's designee to revoke
18 or suspend a license, to assess fines, to order payment of restitution,
19 or to exercise any other authority authorized under this chapter.

20 NEW SECTION. **Sec. 10.** CURRENCY EXCHANGE LICENSE REQUIRED. (1) A
21 person may not engage in the business of currency exchange or
22 advertise, solicit, or hold itself out as able to engage in currency
23 exchange for which the person receives revenue equal to or greater than
24 five percent of total revenues, unless the person is:

- 25 (a) Licensed to provide currency exchange under this chapter;
26 (b) Licensed for money transmission under this chapter; or
27 (c) An authorized delegate of a person licensed under this chapter.
28 (2) A license under this chapter is not transferable or assignable.

29 NEW SECTION. **Sec. 11.** APPLICATION FOR A CURRENCY EXCHANGE
30 LICENSE. (1) A person applying for a currency exchange license under
31 this chapter shall do so in a form and in a medium prescribed in rule
32 by the director. The application must state or contain:

- 33 (a) The legal name, business addresses, and residential address, if
34 applicable, of the applicant and any fictitious or trade name used by
35 the applicant in conducting its business, and the legal name,
36 residential and business addresses, date of birth, social security
37 number, employment history for the ten-year period preceding the

1 submission of the application; and upon request of the director,
2 fingerprints of the applicant's proposed responsible individual and
3 documentation that the proposed responsible individual is a citizen of
4 the United States or has obtained legal immigration status to work in
5 the United States;

6 (b) For the ten-year period preceding the submission of the
7 application, a list of any criminal convictions of the proposed
8 responsible individual of the applicant, any material litigation in
9 which the applicant has been involved, and any litigation involving the
10 proposed responsible individual relating to the provision of money
11 services;

12 (c) A description of any money services previously provided by the
13 applicant and the money services that the applicant seeks to provide in
14 this state;

15 (d) A list of the applicant's proposed authorized delegates and the
16 locations in this state where the applicant and its authorized
17 delegates propose to engage in currency exchange;

18 (e) A list of other states in which the applicant engages in
19 currency exchange or provides other money services and any license
20 revocations, suspensions, restrictions, or other disciplinary action
21 taken against the applicant in another state;

22 (f) A list of any license revocations, suspensions, restrictions,
23 or other disciplinary action taken against any money services business
24 involving the proposed responsible individual;

25 (g) Information concerning any bankruptcy or receivership
26 proceedings involving or affecting the applicant or the proposed
27 responsible individual;

28 (h) A sample form of contract for authorized delegates, if
29 applicable;

30 (i) A description of the source of money and credit to be used by
31 the applicant to provide currency exchange; and

32 (j) Any other information regarding the background, experience,
33 character, financial responsibility, and general fitness of the
34 applicant, the applicant's responsible individual, or authorized
35 delegates that the director may require in rule.

36 (2) If an applicant is a corporation, limited liability company,
37 partnership, or other entity, the applicant shall also provide:

38 (a) The date of the applicant's incorporation or formation and
39 state or country of incorporation or formation;

1 (b) If applicable, a certificate of good standing from the state or
2 country in which the applicant is incorporated or formed;

3 (c) A brief description of the structure or organization of the
4 applicant, including any parent or subsidiary of the applicant, and
5 whether any parent or subsidiary is publicly traded;

6 (d) The legal name, any fictitious or trade name, all business and
7 residential addresses, date of birth, social security number, and
8 employment history in the ten-year period preceding the submission of
9 the application for each executive officer, board director, or person
10 that has control of the applicant;

11 (e) If the applicant or its corporate parent is not a publicly
12 traded entity, the director may request the fingerprints for each
13 executive officer, board director, or person that has control of the
14 applicant; and

15 (f) A list of any criminal convictions, material litigation, and
16 any litigation related to the provision of money services, in which any
17 executive officer, board director, or person in control of the
18 applicant has been involved in the ten-year period preceding the
19 submission of the application.

20 (3) A nonrefundable application fee and an initial license fee, as
21 determined in rule by the director, must accompany an application for
22 a currency exchange license under this chapter. The license fee must
23 be refunded if the application is denied.

24 (4) The director may waive one or more requirements of subsection
25 (1) or (2) of this section or permit an applicant to submit other
26 information in lieu of the required information.

27 NEW SECTION. **Sec. 12.** ISSUANCE OF A CURRENCY EXCHANGE LICENSE.

28 (1) When an application for a currency exchange license is filed under
29 this chapter, the director or the director's designee shall investigate
30 the applicant's financial condition and responsibility, financial and
31 business experience, competence, character, and general fitness. The
32 director or the director's designee may conduct an on-site
33 investigation of the applicant, the cost of which must be paid by the
34 applicant as specified in section 34 of this act or rules adopted under
35 this chapter. The director shall issue a currency exchange license to
36 an applicant under this chapter if the director or the director's
37 designee finds that all of the following conditions have been
38 fulfilled:

1 (a) The applicant has complied with section 11 of this act;

2 (b) The financial and business experience, competence, character,
3 and general fitness of the applicant; and the competence, financial and
4 business experience, character, and general fitness of the executive
5 officers, proposed responsible individual, board directors, and persons
6 in control of the applicant indicate that it is in the interest of the
7 public to permit the applicant to engage in the business of providing
8 currency exchange; and

9 (c) Neither the applicant, nor any executive officer, nor person
10 who exercises control over the applicant, nor the proposed responsible
11 individual are listed on the specially designated nationals and blocked
12 persons list prepared by the United States department of treasury or
13 department of state under Presidential Executive Order No. 13224.

14 (2) The director may for good cause extend the application review
15 period.

16 (3) An applicant whose application is denied by the director under
17 this chapter may appeal under chapter 34.05 RCW.

18 (4) A currency exchange license issued under this chapter is valid
19 from the date of issuance and remains in effect with no fixed date of
20 expiration unless otherwise suspended or revoked by the director, or
21 unless the license expires for nonpayment of the annual license
22 assessment and any late fee, if applicable.

23 (5) A currency exchange licensee may surrender a license by
24 delivering the original license to the director along with a written
25 notice of surrender. The written notice of surrender must include
26 notice of where the records of the licensee will be stored and the
27 name, address, telephone number, and other contact information of a
28 responsible party who is authorized to provide access to the records.
29 The surrender of a license does not reduce or eliminate the licensee's
30 civil or criminal liability arising from acts or omissions occurring
31 prior to the surrender of the license, including any administrative
32 actions undertaken by the director or the director's designee to revoke
33 or suspend a license, to assess fines, to order payment of restitution,
34 or to exercise any other authority authorized under this chapter.

35 NEW SECTION. **Sec. 13.** ANNUAL LICENSE ASSESSMENT AND ANNUAL
36 REPORT. (1) A licensee shall pay an annual license assessment as
37 established in rule by the director no later than the annual license

1 assessment due date or, if the annual license assessment due date is
2 not a business day, on the next business day.

3 (2) A licensee shall submit an annual report with the annual
4 license assessment, in a form and in a medium prescribed by the
5 director in rule. The annual report must state or contain:

6 (a) If the licensee is a money transmitter, a copy of the
7 licensee's most recent audited annual financial statement or, if the
8 licensee is a wholly owned subsidiary of another corporation, the most
9 recent audited consolidated annual financial statement of the parent
10 corporation or the licensee's most recent audited consolidated annual
11 financial statement;

12 (b) A description of each material change, as defined in rule by
13 the director, to information submitted by the licensee in its original
14 license application which has not been previously reported to the
15 director on any required report;

16 (c) If the licensee is a money transmitter, a list of the
17 licensee's permissible investments and a certification that the
18 licensee continues to maintain permissible investments according to the
19 requirements set forth in sections 22 and 23 of this act;

20 (d) If the licensee is a money transmitter, proof that the licensee
21 continues to maintain adequate security as required by section 7 of
22 this act; and

23 (e) A list of the locations in this state where the licensee or an
24 authorized delegate of the licensee engages in or provides money
25 services.

26 (3) If a licensee does not file an annual report or pay its annual
27 license assessment by the annual license assessment due date or any
28 extension of time granted by the director or the director's designee,
29 the director or the director's designee shall send the licensee a
30 notice of suspension and assess the licensee a late fee not to exceed
31 twenty-five percent of the annual license assessment as established in
32 rule by the director. To prevent expiration of the license, the
33 licensee's annual report and payment of both the annual license
34 assessment and the late fee must arrive in the department's offices by
35 5:00 p.m. on the thirtieth day after the assessment due date or any
36 extension of time granted by the director, unless that date is not a
37 business day, in which case the licensee's annual report and payment of
38 both the annual license assessment and the late fee must arrive in the
39 department's offices by 5:00 p.m. on the next occurring business day.

1 If the licensee's annual report and payment of both the annual license
2 assessment and late fee do not arrive by such date, the expiration of
3 the licensee's license is effective at 5:00 p.m. on the thirtieth day
4 after the assessment due date, unless that date is not a business day,
5 in which case the expiration of the licensee's license is effective at
6 5:00 p.m. on the next occurring business day. The expiration of the
7 license may be lifted if, within twenty days after its effective date,
8 the licensee:

9 (a) Files the annual report and pays both the annual license
10 assessment and the late fee; and

11 (b) The licensee did not engage in or provide money services during
12 the period its license was expired.

13 (4) The director for good cause may grant an extension of the
14 assessment due date.

15 NEW SECTION. **Sec. 14.** RELATIONSHIP BETWEEN LICENSEE AND
16 AUTHORIZED DELEGATE. (1) In this section, "remit" means to make direct
17 payments of money to a licensee or its representative authorized to
18 receive money or to deposit money in a bank in an account specified by
19 the licensee.

20 (2) A contract between a licensee and an authorized delegate must
21 require the authorized delegate to operate in full compliance with this
22 chapter and the rules adopted under this chapter. The licensee shall
23 furnish to each authorized delegate policies and procedures to assist
24 each authorized delegate in preventing violations of this chapter and
25 the rules adopted under this chapter.

26 (3) Neither the licensee nor an authorized delegate may authorize
27 subdelegates.

28 (4) An authorized delegate shall remit all money owing to the
29 licensee in accordance with the terms of the contract between the
30 licensee and the authorized delegate.

31 (5) If a license is suspended or revoked or a licensee surrenders
32 its license, the director shall notify all authorized delegates of the
33 licensee whose names are filed with the director of the suspension,
34 revocation, or surrender and shall publish the name of the licensee.
35 An authorized delegate shall immediately cease to provide money
36 services as a delegate of the licensee upon receipt of notice, or after
37 publication is made, that the licensee's license has been suspended,
38 revoked, or surrendered.

1 (6) An authorized delegate may not provide money services other
2 than those allowed the licensee under its license. In addition, an
3 authorized delegate may not provide money services outside the scope of
4 activity permissible under the contract between the authorized delegate
5 and the licensee, except activity in which the authorized delegate is
6 authorized to engage under section 5 or 10 of this act.

7 NEW SECTION. **Sec. 15.** AUTHORITY TO CONDUCT EXAMINATIONS AND
8 INVESTIGATIONS. (1) For the purpose of discovering violations of this
9 chapter or rules adopted under this chapter, discovering unsafe and
10 unsound practices, or securing information lawfully required under this
11 chapter, the director may at any time, either personally or by
12 designee, investigate or examine the business and, wherever located,
13 the books, accounts, records, papers, documents, files, and other
14 information used in the business of every licensee or its authorized
15 delegates, and of every person who is engaged in the business of
16 providing money services, whether the person acts or claims to act
17 under or without the authority of this chapter. For these purposes,
18 the director or designated representative shall have free access to the
19 offices and places of business, books, accounts, papers, documents,
20 other information, records, files, safes, and vaults of all such
21 persons. The director or the director's designee may require the
22 attendance of and examine under oath all persons whose testimony may be
23 required about the business or the subject matter of any investigation,
24 examination, or hearing and may require such person to produce books,
25 accounts, papers, documents, records, files, and any other information
26 the director or designated person declares is relevant to the inquiry.
27 The director may require the production of original books, accounts,
28 papers, documents, records, files, and other information; may require
29 that such original books, accounts, papers, documents, records, files,
30 and other information be copied; or may make copies himself or herself
31 or by designee of such original books, accounts, papers, documents,
32 records, files, or other information. If a licensee or person does not
33 attend and testify, or does not produce the requested books, accounts,
34 papers, documents, records, files, or other information, then the
35 director or designated person may issue a subpoena or subpoena duces
36 tecum requiring attendance or compelling production of the books,
37 accounts, papers, documents, records, files, or other information.

1 (2) The licensee, applicant, or person subject to licensing under
2 this chapter shall pay the cost of examinations and investigations as
3 specified in section 34 of this act or rules adopted under this
4 chapter.

5 (3) Information obtained during an examination or investigation
6 under this chapter may be disclosed only as provided in section 21 of
7 this act.

8 NEW SECTION. **Sec. 16.** JOINT EXAMINATIONS. (1) The director may
9 conduct an on-site examination or investigation of the books, accounts,
10 records, papers, documents, files, and other information used in the
11 business of every licensee or its authorized delegates in conjunction
12 with representatives of other state agencies or agencies of another
13 state or of the federal government. The director may accept an
14 examination report or an investigation report of an agency of this
15 state or of another state or of the federal government.

16 (2) A joint examination or investigation, or an acceptance of an
17 examination or investigation report, does not preclude the director
18 from conducting an examination or investigation under this chapter. A
19 joint report or a report accepted under this section is an official
20 report of the director for all purposes.

21 NEW SECTION. **Sec. 17.** REPORTS. (1) A licensee shall file with
22 the director within thirty business days any material changes in
23 information provided in a licensee's application as prescribed in rule
24 by the director. If this information indicates that the licensee is no
25 longer in compliance with this chapter, the director may take any
26 action authorized under this chapter to ensure that the licensee
27 operates in compliance with this chapter.

28 (2) A licensee shall file with the director within forty-five days
29 after the end of each fiscal quarter a current list of all authorized
30 delegates and locations in this state where the licensee, or an
31 authorized delegate of the licensee, provides money services, including
32 mobile locations. The licensee shall state the name and street address
33 of each location and authorized delegate operating at the location.

34 (3) A licensee shall file a report with the director within one
35 business day after the licensee has reason to know of the occurrence of
36 any of the following events:

1 (a) The filing of a petition by or against the licensee, or any
2 authorized delegate of the licensee, under the United States Bankruptcy
3 Code (11 U.S.C. Sec. 101-110) for bankruptcy or reorganization;

4 (b) The filing of a petition by or against the licensee, or any
5 authorized delegate of the licensee, for receivership, the commencement
6 of any other judicial or administrative proceeding for its dissolution
7 or reorganization, or the making of a general assignment for the
8 benefit of its creditors;

9 (c) The commencement of a proceeding to revoke, suspend, restrict,
10 or condition its license, or otherwise discipline or sanction the
11 licensee, in a state or country in which the licensee engages in
12 business or is licensed;

13 (d) The cancellation or other impairment of the licensee's bond or
14 other security;

15 (e) A charge or conviction of the licensee or of an executive
16 officer, responsible individual, board director of the licensee, or
17 person in control of the licensee, for a felony; or

18 (f) A charge or conviction of an authorized delegate for a felony.

19 NEW SECTION. **Sec. 18.** CHANGE OF CONTROL. (1) A licensee shall:

20 (a) Provide the director with written notice of a proposed change
21 of control within fifteen days after learning of the proposed change of
22 control and at least thirty days prior to the proposed change of
23 control;

24 (b) Request approval of the change of control by submitting the
25 information required in rule by the director; and

26 (c) Submit, with the notice, a nonrefundable fee as prescribed in
27 rule by the director.

28 (2) After review of a request for approval under subsection (1) of
29 this section, the director may require the licensee to provide
30 additional information concerning the licensee's proposed persons in
31 control. The additional information must be limited to the same types
32 required of the licensee, or persons in control of the licensee, as
33 part of its original license application.

34 (3) The director shall approve a request for change of control
35 under subsection (1) of this section if, after investigation, the
36 director determines that the person, or group of persons, requesting
37 approval meets the criteria for licensing set forth in sections 9 and

1 12 of this act and that the public interest will not be jeopardized by
2 the change of control.

3 (4) Subsection (1) of this section does not apply to a public
4 offering of securities.

5 (5) Before filing a request for approval to acquire control of a
6 licensee, or person in control of a licensee, a person may request in
7 writing a determination from the director as to whether the person
8 would be considered a person in control of a licensee upon consummation
9 of a proposed transaction. If the director determines that the person
10 would not be a person in control of a licensee, the director shall
11 respond in writing to that effect and the proposed person and
12 transaction is not subject to the requirements of subsections (1)
13 through (3) of this section.

14 (6) The director may exempt by rule any person from the
15 requirements of subsection (1)(a) of this section, if it is in the
16 public interest to do so.

17 NEW SECTION. **Sec. 19.** RECORDS. (1) A licensee shall maintain the
18 following records for determining its compliance with this chapter for
19 at least five years:

20 (a) A general ledger posted at least monthly containing all assets,
21 liabilities, capital, income, and expense accounts;

22 (b) Bank statements and bank reconciliation records;

23 (c) A list of the last known names and addresses of all of the
24 licensee's authorized delegates;

25 (d) Copies of all currency transaction reports and suspicious
26 activity reports filed in compliance with section 20 of this act; and

27 (e) Any other records required in rule by the director.

28 (2) The items specified in subsection (1) of this section may be
29 maintained in any form of record that is readily accessible to the
30 director or the director's designee upon request.

31 (3) Records may be maintained outside this state if they are made
32 accessible to the director on seven business days' notice that is sent
33 in writing.

34 (4) All records maintained by the licensee are open to inspection
35 by the director or the director's designee.

36 NEW SECTION. **Sec. 20.** MONEY LAUNDERING REPORTS. (1) Every
37 licensee and its authorized delegates shall file with the director or

1 the director's designee all reports required by federal currency
2 reporting, recordkeeping, and suspicious transaction reporting
3 requirements as set forth in 31 U.S.C. Sec. 5311, 31 C.F.R. Sec. 103
4 (2000), and other federal and state laws pertaining to money
5 laundering. Every licensee and its authorized delegates shall maintain
6 copies of these reports in its records in compliance with section 19 of
7 this act.

8 (2) The timely filing of a complete and accurate report required
9 under subsection (1) of this section with the appropriate federal
10 agency is compliance with the requirements of subsection (1) of this
11 section, unless the director notifies the licensee that reports of this
12 type are not being regularly and comprehensively transmitted by the
13 federal agency.

14 NEW SECTION. **Sec. 21.** CONFIDENTIALITY. (1) Except as otherwise
15 provided in subsection (2) of this section, all information or reports
16 obtained by the director from an applicant, licensee, or authorized
17 delegate and all information contained in, or related to, examination,
18 investigation, operating, or condition reports prepared by, on behalf
19 of, or for the use of the director, or financial statements, balance
20 sheets, or authorized delegate information, are confidential and are
21 not subject to disclosure under chapter 42.17 RCW.

22 (2) The director may disclose information not otherwise subject to
23 disclosure under subsection (1) of this section to representatives of
24 state or federal agencies who agree in writing to maintain the
25 confidentiality of the information; or if the director finds that the
26 release is reasonably necessary for the protection of the public and in
27 the interests of justice.

28 (3) This section does not prohibit the director from disclosing to
29 the public a list of persons licensed under this chapter or the
30 aggregated financial data concerning those licensees.

31 NEW SECTION. **Sec. 22.** MAINTENANCE OF PERMISSIBLE INVESTMENTS.
32 (1) A money transmitter licensee shall maintain at all times
33 permissible investments that have a market value computed in accordance
34 with generally accepted accounting principles of not less than the
35 aggregate amount of all outstanding money transmission by the licensee
36 or its authorized delegates.

1 (2) The director, with respect to any money transmitter licensee,
2 may limit the extent to which a type of investment within a class of
3 permissible investments may be considered a permissible investment,
4 except for money, time deposits, savings deposits, demand deposits, and
5 certificates of deposit issued by a federally insured financial
6 institution. The director may prescribe in rule, or by order allow,
7 other types of investments that the director determines to have a
8 safety substantially equivalent to other permissible investments.

9 NEW SECTION. **Sec. 23.** TYPES OF PERMISSIBLE INVESTMENTS. (1)
10 Except to the extent otherwise limited by the director under section 22
11 of this act, the following investments are permissible for a money
12 transmitter licensee under section 22 of this act:

13 (a) Cash, time deposits, savings deposits, demand deposits, a
14 certificate of deposit, or senior debt obligation of an insured
15 depository institution as defined in section 3 of the federal Deposit
16 Insurance Act (12 U.S.C. Sec. 1813) or as defined under the federal
17 Credit Union Act (12 U.S.C. Sec. 1781);

18 (b) Banker's acceptance or bill of exchange that is eligible for
19 purchase upon endorsement by a member bank of the federal reserve
20 system and is eligible for purchase by a federal reserve bank;

21 (c) An investment bearing a rating of one of the three highest
22 grades as defined by a nationally recognized organization that rates
23 securities;

24 (d) An investment security that is an obligation of the United
25 States or a department, agency, or instrumentality thereof; an
26 investment in an obligation that is guaranteed fully as to principal
27 and interest by the United States; or an investment in an obligation of
28 a state or a governmental subdivision, agency, or instrumentality
29 thereof;

30 (e) Receivables that are payable to a licensee from its authorized
31 delegates, in the ordinary course of business, pursuant to contracts
32 which are not past due or doubtful of collection, if the aggregate
33 amount of receivables under this subsection (1)(e) does not exceed
34 twenty percent of the total permissible investments of a licensee and
35 the licensee does not hold, at one time, receivables under this
36 subsection (1)(e) in any one person aggregating more than ten percent
37 of the licensee's total permissible investments; and

1 (f) A share or a certificate issued by an open-end management
2 investment company that is registered with the United States securities
3 and exchange commission under the Investment Companies Act of 1940 (15
4 U.S.C. Sec. 80(a)(1) through (64), and whose portfolio is restricted by
5 the management company's investment policy to investments specified in
6 (a) through (d) of this subsection.

7 (2) The following investments are permissible under section 22 of
8 this act, but only to the extent specified as follows:

9 (a) An interest-bearing bill, note, bond, or debenture of a person
10 whose equity shares are traded on a national securities exchange or on
11 a national over-the-counter market, if the aggregate of investments
12 under this subsection (2)(a) does not exceed twenty percent of the
13 total permissible investments of a licensee and the licensee does not,
14 at one time, hold investments under this subsection (2)(a) in any one
15 person aggregating more than ten percent of the licensee's total
16 permissible investments;

17 (b) A share of a person traded on a national securities exchange or
18 a national over-the-counter market or a share or a certificate issued
19 by an open-end management investment company that is registered with
20 the United States securities and exchange commission under the
21 Investment Companies Act of 1940 (15 U.S.C. Sec. 80(a)(1) through (64),
22 and whose portfolio is restricted by the management company's
23 investment policy to shares of a person traded on a national securities
24 exchange or a national over-the-counter market, if the aggregate of
25 investments under this subsection (2)(b) does not exceed twenty percent
26 of the total permissible investments of a licensee and the licensee
27 does not, at one time, hold investments under this subsection (2)(b) in
28 any one person aggregating more than ten percent of the licensee's
29 total permissible investments;

30 (c) A demand-borrowing agreement made to a corporation or a
31 subsidiary of a corporation whose securities are traded on a national
32 securities exchange, if the aggregate of the amount of principal and
33 interest outstanding under demand-borrowing agreements under this
34 subsection (2)(c) does not exceed twenty percent of the total
35 permissible investments of a licensee and the licensee does not, at one
36 time, hold principal and interest outstanding under demand-borrowing
37 agreements under this subsection (2)(c) with any one person aggregating
38 more than ten percent of the licensee's total permissible investments;
39 and

1 (d) Any other investment the director designates, to the extent
2 specified in rule by the director.

3 (3) The aggregate of investments under subsection (2) of this
4 section may not exceed fifty percent of the total permissible
5 investments of a licensee.

6 NEW SECTION. **Sec. 24.** ADMINISTRATIVE PROCEEDINGS. All
7 administrative proceedings under this chapter must be conducted in
8 accordance with the administrative procedure act, chapter 34.05 RCW.
9 Any licensee or authorized delegate subject to a statement of charges
10 and order of intent from the director shall be provided with an
11 opportunity for a hearing as provided for in the administrative
12 procedure act. Unless the person subject to the order appears in
13 person or is represented by counsel at the hearing, the person has
14 consented to issuance of the order. If after a hearing, the director
15 finds by a preponderance of the evidence that grounds for sanctions
16 under this chapter exist, then the director may impose any sanctions
17 authorized by this chapter in a final order. As provided for in
18 section 28 of this act, a temporary order to cease and desist is
19 effective upon service upon the licensee or authorized delegate, and
20 remains effective pending a hearing to determine if the order shall
21 become permanent.

22 NEW SECTION. **Sec. 25.** SUSPENSION, REVOCATION, AND RECEIVERSHIP.
23 (1) The director may issue an order to suspend, revoke, or condition a
24 license, place a licensee in receivership, revoke the designation of an
25 authorized delegate, compel payment of restitution by a licensee to
26 damaged parties, require affirmative actions as are necessary by a
27 licensee to comply with this chapter or rules adopted under this
28 chapter, or remove from office or prohibit from participation in the
29 affairs of any authorized delegate or any licensee, or both, any
30 responsible individual, executive officer, person in control, or
31 employee of the licensee, if:

32 (a) The licensee violates this chapter or a rule adopted or an
33 order issued under this chapter or is convicted of a violation of a
34 state or federal money laundering or terrorism statute;

35 (b) The licensee does not cooperate with an examination,
36 investigation, or subpoena lawfully issued by the director or the
37 director's designee;

1 (c) The licensee engages in fraud, intentional misrepresentation,
2 or gross negligence;

3 (d) An authorized delegate is convicted of a violation of a state
4 or federal money laundering statute, or violates this chapter or a rule
5 adopted or an order issued under this chapter as a result of the
6 licensee's willful misconduct or deliberate avoidance of knowledge;

7 (e) The financial condition and responsibility, competence,
8 experience, character, or general fitness of the licensee, authorized
9 delegate, person in control of a licensee, or responsible individual of
10 the licensee or authorized delegate indicates that it is not in the
11 public interest to permit the person to provide money services;

12 (f) The licensee engages in an unsafe or unsound practice, or an
13 unfair and deceptive act or practice;

14 (g) The licensee is insolvent, fails to maintain the required net
15 worth, suspends payment of its obligations, or makes a general
16 assignment for the benefit of its creditors;

17 (h) The licensee does not remove an authorized delegate after the
18 director issues and serves upon the licensee a final order including a
19 finding that the authorized delegate has violated this chapter; or

20 (i) The licensee, its responsible individual, or any of its
21 executive officers or other persons in control of the licensee are
22 listed or become listed on the specially designated nationals and
23 blocked persons list prepared by the United States department of the
24 treasury as a potential threat to commit terrorist acts or to finance
25 terrorist acts.

26 (2) In determining whether a licensee or other person subject to
27 this chapter is engaging in an unsafe or unsound practice, the director
28 may consider the size and condition of the licensee's money
29 transmission services, the magnitude of the loss or potential loss to
30 consumers or others, the gravity of the violation of this chapter, any
31 action against the licensee by another state or the federal government,
32 and the previous conduct of the person involved.

33 NEW SECTION. **Sec. 26.** SUSPENSION AND REVOCATION OF AUTHORIZED
34 DELEGATES. (1) The director may issue an order to suspend, revoke, or
35 condition the designation of an authorized delegate, impose civil
36 penalties, require payment of restitution to damaged parties, require
37 affirmative actions as are necessary to comply with this chapter or the
38 rules adopted under this chapter, or remove from office or prohibit

1 from participation in the affairs of the authorized delegate or
2 licensee, or both, any executive officer, person in control, or
3 employee of the authorized delegate if the director finds that:

4 (a) The authorized delegate violated this chapter or a rule adopted
5 or an order issued under this chapter;

6 (b) The authorized delegate does not cooperate with an examination,
7 investigation, or subpoena lawfully issued by the director or the
8 director's designee;

9 (c) The authorized delegate engaged in fraud, intentional
10 misrepresentation, or gross negligence;

11 (d) The authorized delegate is convicted of a violation of a state
12 or federal money laundering or terrorism statute;

13 (e) The competence, experience, character, or general fitness of
14 the authorized delegate or a person in control of the authorized
15 delegate indicates that it is not in the public interest to permit the
16 authorized delegate to provide money services;

17 (f) The authorized delegate engaged in or is engaging in an unsafe
18 or unsound practice, or unfair and deceptive act or practice; or

19 (g) The authorized delegate, or any of its executive officers or
20 other persons in control of the authorized delegate, are listed or
21 become listed on the specially designated nationals and blocked persons
22 list prepared by the United States department of the treasury as a
23 potential threat to commit terrorist acts or to finance terrorist acts.

24 (2) In determining whether an authorized delegate is engaging in an
25 unsafe or unsound practice, the director may consider the size and
26 condition of the authorized delegate's provision of money services, the
27 magnitude of the loss or potential loss to consumers or others, the
28 gravity of the violation of this chapter or a rule adopted or order
29 issued under this chapter, any action against the authorized delegate
30 taken by another state or the federal government, and the previous
31 conduct of the authorized delegate.

32 NEW SECTION. **Sec. 27.** UNLICENSED PERSONS. (1) If the director
33 has reason to believe that a person has violated or is violating
34 section 5 or 10 of this act, the director or the director's designee
35 may conduct an examination or investigation as authorized under section
36 15 of this act.

37 (2) If as a result of such investigation or examination, the
38 director finds that a person has violated section 5 or 10 of this act,

1 the director may issue a temporary cease and desist order as authorized
2 under section 28 of this act.

3 (3) If as a result of such an investigation or examination, the
4 director finds that a person has violated section 5 or 10 of this act,
5 the director may issue an order to prohibit the person from continuing
6 to engage in providing money services, to compel the person to pay
7 restitution to damaged parties, to impose civil money penalties on the
8 person, and to prohibit from participation in the affairs of any
9 licensee or authorized delegate, or both, any executive officer, person
10 in control, or employee of the person.

11 (4) The director may petition the superior court for the issuance
12 of a temporary restraining order under the rules of civil procedure.

13 NEW SECTION. **Sec. 28.** TEMPORARY ORDERS TO CEASE AND DESIST. (1)
14 If the director determines that a violation of this chapter or of a
15 rule adopted or an order issued under this chapter by a licensee,
16 authorized delegate, or other person subject to this chapter is likely
17 to cause immediate and irreparable harm to the licensee, its customers,
18 or the public as a result of the violation, or cause insolvency or
19 significant dissipation of the assets of the licensee, the director may
20 issue a temporary order to cease and desist requiring the licensee,
21 authorized delegate, or other person subject to this chapter to cease
22 and desist from conducting business in this state or to cease and
23 desist from the violation or undertake affirmative actions as are
24 necessary to comply with this chapter, any rule adopted under this
25 chapter, or order issued by the director under this chapter. The order
26 is effective upon service upon the licensee, authorized delegate, or
27 other person subject to this chapter.

28 (2) A temporary order to cease and desist remains effective and
29 enforceable pending the completion of an administrative proceeding
30 under chapter 34.05 RCW. If, after a hearing, the director finds that
31 by a preponderance of the evidence, all or any part of the order is
32 supported by the facts, the director may make the temporary order to
33 cease and desist permanent under chapter 34.05 RCW.

34 (3) A licensee, an authorized delegate, or other person subject to
35 this chapter that is served with a temporary order to cease and desist
36 may petition the superior court for a judicial order setting aside,
37 limiting, or suspending the enforcement, operation, or effectiveness of

1 the order pending the completion of an administrative proceeding under
2 chapter 34.05 RCW.

3 NEW SECTION. **Sec. 29.** CONSENT ORDERS. The director may enter
4 into a consent order at any time with a person to resolve a matter
5 arising under this chapter or a rule adopted or order issued under this
6 chapter. A consent order must be signed by the person to whom it is
7 issued or by the person's authorized representative, and must indicate
8 agreement with the terms contained in the order.

9 NEW SECTION. **Sec. 30.** VIOLATIONS--LIABILITY. (1) A licensee is
10 liable for any conduct violating this chapter or rules adopted under
11 this chapter committed by employees of the licensee.

12 (2) A licensee that commits willful misconduct in its supervision
13 of its authorized delegate or willfully avoids knowledge of its
14 authorized delegate's business activities may be subjected to
15 administrative sanctions for any violations of this chapter or rules
16 adopted under this chapter by the licensee's authorized delegates.

17 (3) The responsible individual is responsible under the license and
18 may be subjected to administrative sanctions for any violations of this
19 chapter or rules adopted under this chapter committed by the licensee
20 or, if the responsible individual commits willful misconduct in
21 supervising an authorized delegate or willfully avoids knowledge of an
22 authorized delegate's business activities, violations committed by the
23 licensee's authorized delegates.

24 NEW SECTION. **Sec. 31.** CIVIL PENALTIES. The director may assess
25 a civil penalty against a licensee, responsible individual, authorized
26 delegate, or other person that violates this chapter or a rule adopted
27 or an order issued under this chapter in an amount not to exceed one
28 hundred dollars per day for each day the violation is outstanding, plus
29 this state's costs and expenses for the investigation and prosecution
30 of the matter, including reasonable attorneys' fees.

31 NEW SECTION. **Sec. 32.** CRIMINAL PENALTIES. (1) A person that
32 intentionally makes a false statement, misrepresentation, or false
33 certification in a record filed or required to be maintained under this
34 chapter or that intentionally makes a false entry or omits a material

1 entry in that record is guilty of a class C felony under chapter 9A.20
2 RCW.

3 (2) A person that knowingly engages in an activity for which a
4 license is required under this chapter without being licensed under
5 this chapter and who receives more than five hundred dollars in
6 compensation within a thirty-day period from this activity is guilty of
7 a gross misdemeanor under chapter 9A.20 RCW.

8 (3) A person that knowingly engages in an activity for which a
9 license is required under this chapter without being licensed under
10 this chapter and who receives no more than five hundred dollars in
11 compensation within a thirty-day period from this activity is guilty of
12 a misdemeanor under chapter 9A.20 RCW.

13 NEW SECTION. **Sec. 33.** ADMINISTRATION AND RULE-MAKING POWERS. The
14 director has the power and broad administrative discretion to
15 administer and interpret this chapter to fulfill the intent of the
16 legislature as expressed in section 2 of this act. In accordance with
17 chapter 34.05 RCW, the director may issue rules under this chapter to
18 govern the activities of licensees and other persons subject to this
19 chapter.

20 NEW SECTION. **Sec. 34.** FEES. (1) The director shall establish
21 fees by rule sufficient to cover the costs of administering this
22 chapter. The director may establish different fees for each type of
23 license authorized under this chapter. These fees may include:

24 (a) An annual license assessment specified in rule by the director
25 paid by each licensee on or before the annual license assessment due
26 date;

27 (b) A late fee for late payment of the annual license assessment as
28 specified in rule by the director;

29 (c) An hourly examination or investigation fee to cover the costs
30 of any examination or investigation of the books and records of a
31 licensee or other person subject to this chapter;

32 (d) A nonrefundable application fee to cover the costs of
33 processing license applications made to the director under this
34 chapter;

35 (e) An initial license fee to cover the period from the date of
36 licensure to the end of the calendar year in which the license is
37 initially granted; and

1 (f) A transaction fee or set of transaction fees to cover the
2 administrative costs associated with processing changes in control,
3 changes of address, and other administrative changes as specified in
4 rule by the director.

5 (2) The director shall ensure that when an examination or
6 investigation, or any part of the examination or investigation, of any
7 licensee applicant or person subject to licensing under this chapter,
8 requires travel and services outside this state by the director or
9 designee, the licensee applicant or person subject to licensing under
10 this chapter that is the subject of the examination or investigation
11 shall pay the actual travel expenses incurred by the director or
12 designee conducting the examination or investigation.

13 (3) All moneys, fees, and penalties collected under this chapter
14 shall be deposited into the financial services regulation account.

15 NEW SECTION. **Sec. 35.** MONEY TRANSMITTER DELIVERY, RECEIPTS, AND
16 REFUNDS. (1) Every money transmitter licensee and its authorized
17 delegates shall transmit the monetary equivalent of all money or
18 equivalent value received from a customer for transmission, net of any
19 fees, or issue instructions committing the money or its monetary
20 equivalent, to the person designated by the customer within ten
21 business days after receiving the money or equivalent value, unless
22 otherwise ordered by the customer or unless the licensee or its
23 authorized delegate has reason to believe that a crime has occurred, is
24 occurring, or may occur as a result of transmitting the money. For
25 purposes of this subsection, money is considered to have been
26 transmitted when it is available to the person designated by the
27 customer and a reasonable effort has been made to inform this
28 designated person that the money is available, whether or not the
29 designated person has taken possession of the money. As used in this
30 subsection, "monetary equivalent," when used in connection with a money
31 transmission in which the customer provides the licensee or its
32 authorized delegate with the money of one government, and the
33 designated recipient is to receive the money of another government,
34 means the amount of money, in the currency of the government that the
35 designated recipient is to receive, as converted at the retail exchange
36 rate offered by the licensee or its authorized delegate to the customer
37 in connection with the transaction.

1 (2) Every money transmitter licensee and its authorized delegates
2 shall provide a receipt to the customer that clearly states the amount
3 of money presented for transmission, the total of any fees not
4 including any earnings from currency exchange, the net amount of United
5 States money transmitted. As used in this section, "fees" does not
6 include revenue that a licensee or its authorized delegate generates,
7 in connection with a money transmission, in the conversion of the money
8 of one government into the money of another government.

9 (3) Every money transmitter licensee and its authorized delegates
10 shall refund to the customer all moneys received for transmittal within
11 ten days of receipt of a written request for a refund unless any of the
12 following occurs:

13 (a) The moneys have been transmitted and delivered to the person
14 designated by the customer prior to receipt of the written request for
15 a refund;

16 (b) Instructions have been given committing an equivalent amount of
17 money to the person designated by the customer prior to receipt of a
18 written request for a refund;

19 (c) The licensee or its authorized delegate has reason to believe
20 that a crime has occurred, is occurring, or may potentially occur as a
21 result of transmitting the money as requested by the customer or
22 refunding the money as requested by the customer; or

23 (d) The licensee is otherwise barred by law from making a refund.

24 NEW SECTION. **Sec. 36.** PROHIBITED PRACTICES. It is a violation of
25 this chapter for any licensee, executive officer, responsible
26 individual, or other person subject to this chapter in connection with
27 the provision of money services to:

28 (1) Directly or indirectly employ any scheme, device, or artifice
29 to defraud or mislead any person;

30 (2) Directly or indirectly engage in any unfair or deceptive act or
31 practice toward any person;

32 (3) Directly or indirectly obtain property by fraud or
33 misrepresentation;

34 (4) Knowingly make, publish, or disseminate any false, deceptive,
35 or misleading information in the provision of money services;

36 (5) Knowingly receive or take possession for personal use of any
37 property of any money services business, other than in payment for
38 services rendered, and with intent to defraud, omit to make, or cause

1 or direct to omit to make, a full and true entry thereof in the books
2 and accounts of the business;

3 (6) Make or concur in making any false entry, or omit or concur in
4 omitting any material entry, in the books or accounts of the business;

5 (7) Knowingly make or publish to the director or director's
6 designee, or concur in making or publishing to the director or
7 director's designee any written report, exhibit, or statement of its
8 affairs or pecuniary condition containing any material statement which
9 is false, or omit or concur in omitting any statement required by law
10 to be contained therein; or

11 (8) Fail to make any report or statement lawfully required by the
12 director or other public official.

13 NEW SECTION. **Sec. 37.** (1) There is established the money service
14 business commission consisting of five commission members. The
15 commission shall advise the director on issues affecting the money
16 service industry to ensure that this chapter is administered in a
17 manner that protects consumers, prevents the use of money services
18 businesses for criminal purposes, and promotes access to money services
19 for all communities in Washington.

20 (2) The director shall appoint the members of the commission. At
21 least three of the commission members shall be subject to licensing or
22 employees of an entity subject to licensing under this chapter. In
23 addition, the director or the director's designee shall serve as an ex
24 officio, nonvoting member of the commission. Members of the commission
25 shall be appointed to a two-year term, with three of the initial
26 commission members appointed to initial terms of three years. The
27 department of financial institutions shall provide staff support to the
28 commission.

29 (3) Members of the commission shall be reimbursed for their travel
30 expenses in accordance with RCW 43.03.050 and 43.03.060, and shall be
31 compensated in accordance with RCW 43.03.240.

32 (4) The director may remove any member of the commission for cause,
33 including but not limited to:

34 (a) Violation of this chapter or the rules adopted under this
35 chapter by the commission member or the licensee that employs the
36 commission member;

37 (b) Listing of the commission member or the licensee that employs
38 the commission member on the list of specially designated nationals and

1 blocked persons prepared by the United States department of the
2 treasury or department of state under Presidential Executive Order No.
3 13224;

4 (c) Violation of state or federal money-laundering laws or
5 regulations by the commission member or the licensee that employs the
6 commission member;

7 (d) A charge or conviction of the commission member of a felony; or

8 (e) A finding by the director or the director's designee that the
9 financial responsibility, competence, character, or general fitness of
10 the commission member or the licensee that employs the commission
11 member indicates that it is not in the public interest for the
12 commission member to continue to serve on the commission.

13 NEW SECTION. **Sec. 38.** EFFECTIVE DATE. This act takes effect
14 October 1, 2002.

15 NEW SECTION. **Sec. 39.** IMPLEMENTATION. The director or the
16 director's designee may take such steps as are necessary to ensure that
17 this act is implemented on its effective date. In particular, the
18 director or the director's designee shall conduct outreach to small
19 businesses and immigrant communities to enhance awareness of and
20 compliance with state and federal laws governing money transmission and
21 currency exchange, and to provide technical assistance in applying for
22 a license under this chapter and understanding the requirements of this
23 chapter.

24 NEW SECTION. **Sec. 40.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.
25 In applying and construing this chapter, consideration must be given to
26 the need to promote uniformity of the law with respect to its subject
27 matter among states that enact it.

28 NEW SECTION. **Sec. 41.** SEVERABILITY CLAUSE. If any provision of
29 this act or its application to any person or circumstance is held
30 invalid, the remainder of the act or the application of the provision
31 to other persons or circumstances is not affected.

32 NEW SECTION. **Sec. 42.** CAPTIONS NOT LAW. Captions used in this
33 chapter are not any part of the law.

